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10/803,839	03/18/2004	William M. Kurple	45251/46701	6451

21888 7590 08/27/2007  
THOMPSON COBURN, LLP  
ONE US BANK PLAZA  
SUITE 3500  
ST LOUIS, MO 63101

EXAMINER
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SILBERMANN, JOANNE

ART UNIT	PAPER NUMBER
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3611

MAIL DATE	DELIVERY MODE
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08/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

**AUG 27 2007**

Application Number: 10/803,839  
Filing Date: March 18, 2004  
Appellant(s): KURPLE ET AL.

**GROUP 3600**

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Joseph M. Rolnicki  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 25 May 2007 appealing from the Office action mailed 10 October 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2,208,213

ERICSON

7-1940

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-6, 10-16, 20-26, 30-34, 36-46, 48 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by Ericson, US #2,208,213.

Ericson discloses a sign comprising support panels 7 and 8 (Figure 3) each having upper and lower ends and first and second (opposite surfaces, the upper ends of each connected by pivoting connection 11 (Figure 4). Runner 34 is adjacent to the upper ends of the support panels and adjacent to the pivoting connection. Movable panels 4 have upper and lower ends and third and fourth surfaces and are mounted on the runner by their upper ends. The movable panels are movable along the runner (Figure 4) from parallel to the first support panel to parallel to the second support panel.

The movable panels are for displaying a message.

The runner is coupled to the upper ends of the support panels through loops 38 and pivoting connection 11.

The runner is circular and flexible and is connected to the movable panels through eyelets 5 (Figure 1).

Regarding the particular displays on the panels, patentable novelty cannot be principally predicated on mere printed matter and arrangements thereof, but must reside basically in physical structure. In re Montgomery, 102 USPQ 248 (CCPA 1954). The particular displays on the panels (or lack thereof) have been considered, but are not given patentable weight.

Regarding claim 14, the end of the movable panel extending beyond the runner is considered to be the extension.

Art Unit: 3611

Regarding the method steps, Ericson discloses setting up the device so as to display the movable panels (page 1, column 1, lines 22-35).

**(10) Response to Argument**

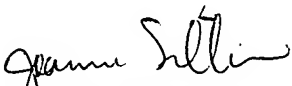
Applicant argues that each of the independent claims recites the movable panel being movable along the runner to a second position generally parallel to the second surface of the second support panel and that this is not shown by Ericson. Ericson shows, in Figure 4, movable panels 4 parallel to first support panel 7 and, in Figure 3, the movable panels parallel to the second surface of second support panel 8. Thus, Figure 4 shows the first position and Figure 3 shows the second position.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
Joanne Silbermann

Conferees:

Lesley Morris 

Meredith Petravick 